

Academic Component Institutions:  
The University of Texas at Arlington  
The University of Texas at Austin  
The University of Texas at Brownsville  
The University of Texas at Dallas  
The University of Texas at El Paso  
The University of Texas Pan American  
The University of Texas at the Permian Basin  
The University of Texas at San Antonio  
The University of Texas Institute of Texan Cultures at San Antonio  
The University of Texas at Tyler



Health Component Institutions:  
The University of Texas Southwestern Medical Center at Dallas  
The University of Texas Medical Branch at Galveston  
The University of Texas Health Science Center at Houston  
The University of Texas Health Science Center at San Antonio  
The University of Texas M.D. Anderson Cancer Center  
The University of Texas Health Center at Tyler

JD #15002  
MBJ

THE UNIVERSITY OF TEXAS SYSTEM

Office of General Counsel

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February 18, 1992

The Honorable Dan Morales  
Attorney General of Texas  
Supreme Court Building  
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Austin, Texas 78711

FEB 19 92

**ATTENTION:**  
**OPINIONS COMMITTEE**

**RE: *Whether The Board Of Regents Of The University of Texas System Has The Legal Authority To Provide Prepaid Legal Services As A Fringe Benefit For Employees Or To Permit Employees To Elect To Have The Cost Of The Plan Deducted From Their Paycheck.***

Dear General Morales:

The University of Texas System has been contacted by Texas Legal Protection Plan, Inc. regarding providing prepaid legal services to U.T. employees. Texas Legal Protection Plan, Inc. is a nonprofit corporation established in 1972 by the State Bar of Texas and administered by Midwest Legal Services, Inc. to provide prepaid legal services to policy holders.

The correspondence and other enclosures submitted to the University (copies enclosed) state that the standard prepaid legal services plan requires no co-payment, has no deductible and provides 100% paid-in-full coverage up to and including litigation when a participating attorney is employed. According to the brochure, participants have the option of consulting non-participating attorneys and obtaining reimbursement of legal fees up to stated limits.

The schedule for reimbursement reflects that only a small fraction of the cost of hiring a non-participating attorney will be reimbursed and that limited reimbursement will be made in certain categories of legal expenses covered by the plan. A specific plan to fit the needs of U.T. employees can be custom designed to obtain a better value for the cost of participation than the standard plan.

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The following legal issues are relevant to the issue of the authority of the University of Texas to provide prepaid legal services for University employees:

1. The governing body of a university may not make a deduction from the compensation of an employee paid by state funds unless the deduction is authorized by law. Article 6813e, Vernon's Texas Civil Statutes, specifically prohibits a state governmental body, including an institution of higher education as defined by Section 61.003, Education Code, from making deductions from the compensation paid to an officer or employee whose compensation is paid in full or in part from state funds unless the deduction is authorized by law.
2. In addition, there may be a constitutional issue involving Article III, Section 51 of the Texas Constitution, which restricts the expenditures of public money to valid public purposes. Texas Pharmaceutical Association v. Dooley, 90 S.W.2d 328 (Tex. Civ. App., Austin, 1936, no writ).
3. In Attorney General's Opinion JM-543 (1986), the issue of whether the University System of South Texas may establish a "cafeteria plan" was discussed. The Attorney General ruled that Article 3.50-3 of the Insurance Code provides the necessary statutory authority for group life, accident, and health insurance coverage. However, Article 3.50-3, Insurance Code, does not specifically authorize prepaid legal services insurance contracts. Attorney General's Opinion JM-543 (1986) specifically declines to address the question of statutory authority to include group legal services in a cafeteria plan, but cites the general language authorizing the governing board of state university to "provide such additional or optional insurance programs and coverages as it deems desirable for its employees". Section 4(b)(4)(E) of Article 3.50-3, Insurance Code.

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Accordingly, The University of Texas System would appreciate your legal opinion on the issue of whether The Board of Regents of The University of Texas System has the legal authority to provide prepaid legal services as a fringe benefit for U.T. employees or to permit U.T. employees to elect to have the cost of the plan deducted from their monthly paycheck.

Very truly yours,



Robert Giddings

JRG:  
Enclosures

xc: Mr. Trennis Jones  
Mr. R.D. Burck  
Mr. Ray Farabee  
Mr. W.O. Shultz II